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OEA

SERVICE DATE – NOVEMBER 8, 2013

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 290 (Sub-No. 349X)

**Norfolk Southern Railway Company – Abandonment Exemption – in Saint Joseph County,
Ind.**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 to abandon a total of 1.50 miles of rail line composed of two contiguous rail segments. The first rail segment is between mileposts PY 1.90 and PY 2.60/PM 181.80 and the second is between PY 2.60/PM 181.80 and PM 181.00 both in the City of South Bend (City), Saint Joseph County, Indiana (the Line). A map depicting the Line in relationship to the area served is appended to this EA. If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to NSR, the two contiguous rail segments join at mileposts PY 2.60/PM 181.80. NSR states that the City has requested that NSR abandon the Line in order to facilitate economic development at Ignition Park on the City's southwest side. The right-of-way width for the Line ranges from 40 to 100 feet along the main track centerline.

ENVIRONMENTAL REVIEW

NSR submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR served the environmental report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

¹ The railroad's environmental and historic reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-290 (Sub-No. 349X).

Diversion of Traffic

According to NSR, no local traffic has moved over the Line for at least two years, and there is no overhead traffic to be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

The City submitted comments in support of the proposed abandonment. The City stated that the proposed abandonment would allow for a more efficient use of land and would assist the City in attracting the types of high-tech businesses that it foresees as the future drivers of the local economy.

The Natural Resources Conservation Service commented that the proposed abandonment would not cause a conversion of prime farmland.

The United States Fish and Wildlife Service (USFWS) submitted comments stating that the proposed abandonment is within the range of the federally endangered Indiana Bat, the threatened northern copperbelly water snake and the candidate eastern massasauga rattlesnake. However, USFWS stated that there is no habitat for any of these species within the proposed project area. Therefore, the proposed project would not likely adversely affect these endangered, threatened and candidate species and no further consultation under Section 7 of the Endangered Species Act of 1973, as amended, is necessary.

The Indiana Department of Natural Resources (IDNR) submitted comments listing a number of recommendations/requirements to mitigate potential impacts to fish, wildlife and botanical resources. IDNR also indicated that the proposed abandonment may require its formal approval pursuant to the Flood Control Act (IC 14-28-1). OEA is therefore recommending a condition that requires NSR to consult with IDNR to determine what, if any, permits are needed prior to salvage, and to comply with their reasonable requirements.

The Indiana Department of Transportation submitted comments confirming that all public rail-highway crossings be salvaged, as stated in NSR's Environmental Report, which would

consist of removing the rail and track material from the existing roadbed and smoothing the roadbed to a level surface.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this EA to IDNR for its review and comment.

HISTORIC REVIEW

NSR served the historic report on the Indiana State Historic Preservation Officer (SHPO), pursuant to 49 C.F.R. § 1105.8(c). SHPO submitted comments stating that it has not identified any historic buildings, structures, districts or objects or known archeological resources listed in or eligible for inclusion in the National Register of Historic Places within the area of the proposed abandonment. Accordingly, pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database at <http://grants.cr.nps.gov/nacd/index.cfm> to identify federally-recognized tribes which may have ancestral connections to the project area. The database indicated that the following tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: the Citizen Potawatomi Nation, Oklahoma, the Forest County Potawatomi Community, Wisconsin, the Hannahville Indian Community, Michigan, the Pokagon Band of Potawatomi Indians, Michigan and Indiana and the Prairie Band of Potawatomi Nation, Kansas.

CONDITIONS

We recommend that the following condition be imposed on any decision granting abandonment authority:

1. Norfolk Southern Railway Company shall consult with the Indiana Department of Natural Resources to determine what, if any, permits are needed prior to salvage, and to comply with their reasonable requirements if applicable.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Danielle Gosselin, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-290 (Sub-No. 349X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Danielle Gosselin, the environmental

contact for this case, by phone at (202) 245-0300, fax at (202) 245-0454, or e-mail at danielle.gosselin@stb.dot.gov.

Date made available to the public: November 8, 2013.

Comment due date: November 26, 2013.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment